

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

TRONICALLY FILED

PAUL VARGAS and ALEX CALLE,
on behalf of themselves and all others similarly situated,

Case No. 14 -CV- 4283 (KMK)

Plaintiffs,

**SO-ORDERED
STIPULATION**

-against-

AMENDOLA MARBLE & STONE CENTER INC.,
AMENDOLA MARBLE PROJECTS, INC., SERGIO
AMENDOLA and JOSEPH AMENDOLA,

Defendants.

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties in the
above-captioned action, that:

The Parties agree to conditional certification of a FLSA Collective Action in this case
and have negotiated a Notice of Lawsuit, annexed hereto as Exhibit "A," to be sent to all non-
managerial hourly employees who were employed at AMENDOLA MARBLE & STONE
CENTER INC. or AMENDOLA MARBLE PROJECTS, INC. (or both), between June 13,
2011 and the present ("potential FLSA Collective Members"), pursuant to Section 216(b) of
the Fair Labor Standards Act, subject to approval or modification by the Court. The Parties
agree to promptly have the Notice of Lawsuit translated into Spanish for mailing together
with the Court- approved (English) Notice.

The Parties further agree that (a) the Defendants shall forthwith provide Plaintiffs'
counsel with a list of the names, employer(s), job classifications, dates of employment,
addresses, phone numbers and e-mail addresses last appearing in their records of all potential
FLSA Collective Members, and (b) Plaintiffs' counsel shall promptly within 15 days,

following Court approval of the Notice of Lawsuit and receipt of the Defendants' list, mail the Notice of Lawsuit with Spanish translation to the potential FLSA Collective Members identified by the Defendants. If a Notice is returned as undeliverable, the Parties agree that a "skip trace" process will be used to identify a subsequent address, and Plaintiffs at that point may move the Court for Defendants' provision of social security numbers and any other like information for any individual whose address is still undetermined.

The Parties agree to toll the statute of limitations as to the FLSA claims of all potential FLSA Collective Members who ultimately execute and deliver a Consent to Sue form to Plaintiffs' counsel commencing on March 26, 2015 and continuing for a until period of eighty (80) days after the date of the mailing of the Notice of Lawsuit by Plaintiffs' counsel which mailing shall occur pursuant to paragraph 2 above (the "Tolling Period"). Plaintiffs' counsel reserves the right to seek further tolling of the statute of limitations as to the FLSA claims of some or all potential FLSA Collective Members through judicial intervention.

In order to avoid duplicative or unnecessary discovery, the Parties agree to stay further discovery in this matter until the expiration of the Tolling Period , except for discovery related to documents or information necessary to providing proper and adequate notice to potential FLSA Collective Members as contemplated by this So-Ordered Stipulation.

Defendants reserve their right to oppose final certification of the FLSA Collective Action following the close of discovery in this matter.

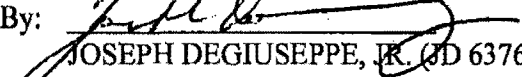
Dated: White Plains, New York
April 24, 2015

GARY G. STAAB, LLC

By: 
GARY G. STAAB, ESQ. (GS 5913)

Attorneys for Plaintiffs
2 William St., Suite 304
White Plains, NY 10601
(914) 220-0030
g.staab@garygstaabllc.com

BLEAKLEY, PLATT & SCHMIDT, LLP

By: 
JOSEPH DEGIUSEPPE, JR. (JD 6376)

Attorneys for Defendants
One North Lexington Avenue
White Plains, NY 10601
(914) 949-2700
jdeguseppe@bpslaw.com

SO ORDERED:


Hon. Kenneth M. Karas, USDJ

DATE: 5/21/15

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

PAUL VARGAS and ALEX CALLE
on behalf of themselves and all others similarly
situated,

Case No. 14 -CV- 4283
(KMK)

Plaintiffs,

-against-

FLSA COLLECTIVE
ACTION

AMENDOLA MARBLE & STONE CENTER INC.,
AMENDOLA MARBLE PROJECTS, INC.,
SERGIO AMENDOLA and JOSEPH AMENDOLA,

Defendants.

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NOTICE OF LAWSUIT REGARDING UNPAID WAGES

To: All individuals who were employed on an hourly basis in a non-managerial position by Amendola Marble & Stone Center, Inc. ("Amendola Marble") or Amendola Marble Projects, Inc. ("Amendola Projects") (or both) at any time during the period from June 13, 2011 to the present.

From: Gary G. Staab LLC, Attorneys at Law.

Re: Collective action lawsuit brought against Amendola Marble and Amendola Projects for unpaid wages.

Date: [date of mailing]

DEADLINE FOR PARTICIPATION IN THE LAWSUIT: The "Consent to Sue" form accompanying this Notice must be mailed to the Plaintiffs' counsel and be post-marked no later than 60 days after the date of mailing of this Notice, i.e., by _____, 2015.

I. THE PURPOSE OF THIS NOTICE

The purpose of this Notice is to inform you of a lawsuit brought under the federal Fair Labor Standards Act ("FLSA") and other laws against Amendola Marble, Amendola Projects, Sergio Amendola and Joseph Amendola ("the Lawsuit") and your rights to participate in the Lawsuit.

You are receiving this notice because the records of Amendola Marble and/or Amendola Projects indicate that you were employed by one or both of these companies during some or all of the period June 13, 2011 to the present. This Notice will advise you of how your rights may be affected by the Lawsuit, and instruct you on the procedure for participating in the Lawsuit.

2. DESCRIPTION OF THE LAWSUIT

The Lawsuit was brought in the United States District Court for the Southern District of New York and is assigned to United States District Judge Kenneth M. Karas. The Plaintiffs in the Lawsuit are currently Paul Vargas and Alex Calle, who allege that they and other employees are entitled to recover unpaid overtime wages under the federal Fair Labor Standards Act and other laws. Specifically Plaintiffs allege that Amendola Marble and/or Amedola Projects failed to (i) pay non-managerial hourly employees at a time-and-a-half rate when they worked over 40 hours in a given workweek and (ii) failed to maintain required time records for their respective non-managerial hourly employees. As a result of that failure, Plaintiffs claim that Amendola Marble and/or Amedola Projects may owe back overtime wages to all non-managerial hourly employees employed by Amendola Marble and/or Amedola Projects during the period June 13, 2011 to the present who were not paid time and a half wages when they worked over 40 hours in a given workweek.

The Lawsuit seeks money owed in unpaid wages, additional damages known as “liquidated damages,” interest, attorneys’ fees and costs.

The Plaintiffs are also seeking to add additional wage-related claims to the case.

Defendants deny they violated the Fair Labor Standards Act or other laws.

The Court has not yet decided whether the Plaintiffs or the Defendants are correct or whether the additional claims may be added to the case. The Court has not decided whether Defendants have done anything wrong.

3. YOUR RIGHT TO PARTICIPATE IN THE LAWSUIT

Anyone who worked in a non-managerial hourly paid position for Amendola Marble or Amedola Projects (or both) during the period June 13, 2011 to the present is entitled to participate in the Lawsuit. If Plaintiffs are successful, individuals who receive this notice and who timely submit the attached “Consent to Sue” form may be entitled to receive payment of unpaid overtime wages for all hours worked over 40 in a given workweek. You may also be entitled to an equal amount of liquidated damages and reasonable attorneys’ fees and costs.

Employees, notwithstanding any previously signed statements, releases or declarations, have a right to participate and may do so by signing the attached “Consent to Sue” form and mailing it to Plaintiffs’ attorneys at the following address:

GARY G. STAAB LLC
The Kennedy Building
2 William Street, Suite 304
White Plains, NY 10601

Plaintiffs' attorneys will file all signed Consent to Sue forms that are returned to them with the Court.

We have also enclosed an Information Sheet, which will not be filed with the Court, that the Plaintiffs' counsel will need to contact you. The information you provide on the Information Sheet will not be made public, but will be used only by the Plaintiffs' attorneys.

A pre-addressed, stamped envelope is included for your convenience to return both the Consent to Sue form and the Information Sheet. Should you send your Consent to Sue form to Gary G. Staab LLC you will be consenting to representation in the action by Plaintiff's counsel, Gary G. Staab LLC.

If you choose to join the Lawsuit, your "Consent to Sue" form must be postmarked by no later than 60 days after the date of the of the mailing of this Notice, i.e., _____. 2015. After that date, you must ask the Court for permission to join.

If you do NOT want to make a claim for unpaid overtime wages, you do not need to do anything. You need not sign or send in the attached "Consent to Sue" Form.

You do not need to have any records from your employment in order to join this Lawsuit.

4. THE LEGAL EFFECT OF FILING THE "CONSENT TO SUE" FORM

If you choose to participate in the Lawsuit, you will be bound by the judgment of this Court regarding overtime pay, whether it is favorable or unfavorable and you will not be able to bring your own separate overtime claim for the same time period. While the Lawsuit is proceeding you may be required to provide information, sit for depositions, or testify in court. You may also be entitled to file a complaint of your own in addition to joining the Plaintiffs' FLSA case.

5. YOUR RIGHT TO NOT PARTICIPATE IN THE LAWSUIT

If you choose NOT to join the Lawsuit, you will not be affected by the judgment, favorable or unfavorable, and will not receive any money awarded as a result of any judgment or settlement in this case on these claims.

If you choose NOT to join the Lawsuit, you are free to file your own lawsuit or do nothing at all. However the two or three year statute of limitations may continue to run against any FLSA claim you may have until you take action.

6. RETALIATION PROHIBITED; BOTH DOCUMENTED AND UNDOCUMENTED WORKERS ARE ELIGIBLE

It is entirely your decision whether or not to participate in the Lawsuit. If you do file the "Consent to Sue" form to participate in the Lawsuit, it is against the law for the Defendants to discharge or to retaliate against you in any way.

You are entitled to participate in the Lawsuit even if you were not working in this country legally at the time of your work for the Defendants or now. You will not be asked about your immigration status, your work permit or other immigration papers, and you do not need to be a documented worker in order to collect any monies recovered from Defendants in this lawsuit.

7. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join the Lawsuit by returning the Consent to Sue Form in the enclosed envelope to Gary G. Staab LLC, you will be represented by:

Gary G. Staab, Esq.
(914) 220-0030
(914) 220-0232 (fax)
g.staab@garygstaabllc.com

and

Frank Taubner, Esq.
(914) 358-5920
f.taubner@garygstaabllc.com

of the law firm:

GARY G. STAAB LLC
The Kennedy Building
2 William Street, Suite 304
White Plains, NY 10601

You do not need to pay these attorneys unless the Lawsuit is successful and there is a monetary recovery. If the Lawsuit is successful the attorneys for the individuals who join the Lawsuit may ask the Court to pay them a part of the monetary recovery as attorneys' fees and litigation expenses. Alternatively you have the right to hire an attorney of your own choice to represent you or you may file your own lawsuit if you do not wish to be represented by an attorney.

8. ATTORNEYS FOR THE DEFENDANTS

The Defendants, Amendola Marble, Amendola Projects, Sergio Amendola and Joseph Amendola, are represented by:

Joseph DeGiuseppe, Jr., Esq.
Bleakley, Platt & Schmidt, LLP
One North Lexington Avenue
White Plains, NY 10601
(914) 287-6144
(914) 683-6956

jdegiuseppe@bpslaw.com

9. FURTHER INFORMATION

If you have any questions about the Lawsuit, deadlines, or how to participate or how not to participate you can contact the Plaintiffs' lawyers, Gary G. Staab, Esq. or Frank Taubner, Esq. at the address, phone numbers, or email addresses listed above.

THIS NOTICE AND ITS CONTENTS HAS BEEN AUTHORIZED BY FEDERAL DISTRICT COURT JUDGE KENNETH M. KARAS. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THE CLAIMS ASSERTED BY THE PLAINTIFFS OR THE DEFENSES ASSERTED BY THE DEFENDANTS.

**CONSENT TO SUE UNDER
FEDERAL FAIR LABOR STANDARDS ACT**

I am currently or was formerly employed by **AMENDOLA MARBLE & STONE CENTER INC., AMENDOLA MARBLE PROJECTS, INC.** and/or related entities. I consent to be a plaintiff in an action to collect unpaid wages. I confirm that I am bound by the terms of the Representation Agreement signed by the Named Plaintiffs in this case unless I decide to file my own lawsuit through another attorney or on my own without an attorney.

Dated: _____, 2015

Full Legal Name (Print)

Signature

CLIENT INFORMATION SHEET

Name: _____

Address: _____

Telephone Number(s): _____

Email: _____

Job Position at
Amendola _____

Dates of Employment: _____

**THIS INFORMATION IS FOR PLAINTIFF'S COUNSEL ONLY
AND WILL NOT BE MADE PUBLIC**